IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

FULTON

Serial No.: 09/599,987

Filed: June 23, 2000

Atty. File No.: 3663-5

For: "MECHANICALLY ACTIVE INFUSION CATHETER"

Group Art Unit: 3761

Examiner: Jamisue A. Webb

14 B 5-9

RESPONSE TO RESTRICTION REQUIREMENT AND AMENDMENT TO CLAIMS

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TYPED OR PRINTED NAME: Brenda Carpenter

SIGNATURE: Brenda Carpenter

Commissioner of Patents
Washington, D.C. 20231

Dear Sir:

Response to Restriction Requirement

This Response to Restriction Requirement is filed in response to the Restriction made March 18, 2002. Applicant elects, with traverse, Group II, Claims 20-30, 41 and 42 for further prosecution in the present case. Applicant traverses the restriction requirement, however, for the reasons as set forth below.

Applicant respectfully submits that where a single field of a search thoroughly covers all of the claims in an application, different classifications in the Patent and Trademark Office should not be controlling. It is respectfully submitted that in this case the restriction requirement only serves to increase the expense to Applicants and to the Patent and Trademark Office. As noted in the Commissioner's Notice of April 9, 1975, 930 O.G. 450 and M.P.E.P §803, where search and examination of an entire application can be made without serious burden, the Examiner is encouraged to examine on the merits, even if it includes claims to distinct or independent inventions.

Applicant also notes that the method claims (Group III) should be properly rejoined to the extent such method corresponds with the pharmomechanical device elected in Group II, either now or during prosecution of the present case.

Alternatively, Applicant respectfully requests that if a restriction requirement is still deemed necessary, that the case be restricted into two separate groups distinguishing between devices and methods. As such, Applicant would respectively request that Groups I, II, IV and V be combined together, and that Group III, directed to the method, comprise the non-elected claims.

Yet still alternatively, Applicant respectfully requests the Examiner to combine Groups I and II so that Applicant is able to pursue claims directed to means-plus-function, as well as to more traditional structure claims, as Applicant is entitled to do. For example, in Group II, a "means for providing a mechanical action to a vessel" may include a motor, attached to a movable catheter.

Amendment

Please amend the claims as follows:

41. (Once Amended) The device as set forth in Claim 20, wherein an intermittent motion of the catheter is provided by a pump that delivers a lytic agent in programmable pulses, and further comprising a programmable motor which regulates intermittent movement of said catheter.

Attached hereto is a marked up version of the changes made to the specification and claims by the current amendment. The attached page is captioned **"Version With Markings to Show Changes Made**."

Applicant's counsel requests the courtesy of a telephone interview to further discuss this restriction requirement in order to determine whether the restriction requirement can be restructured in order to provide Applicant with the ability to pursue device claims which are in identical or similar classes (e.g., Groups II, IV and V) given the linking nature of the claims therein. Applicant's counsel can be reached directly at (303) 863-2977.

Respectfully submitted,

SHERIDAN ROSS P.C.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims

41. (Once Amended) The device as set forth in Claim 20, wherein an intermittent motion of the catheter is provided by a pump that delivers a lytic agent in programmable pulses, and further comprising a programmable motor which regulates intermittent movement of said catheter.